

**REMARKS**

Figure 2 has been amended to show elements 26 and 20 as shown in red in the attached drawing sheets.

Claims 1-23 have been cancelled. New claims 24-40 have been added.

New independent claims 24, 37, and 40 describe an earpiece comprising a cover member defining a cavity, an attaching surface couple to the cover member, and an electrode coupled to the surface. Applicants believe that no prior art teaches the use of an electrode in conjunction with the surface of an earpiece.

In the Office Action of July 18, 2003, the Examiner rejected the original claims as being anticipated by Ziarati (U.S. Patent 5,672,902) and Beguin (U.S. Patent 3,160,717). Based on the new claims, applicants believe the rejections are now moot. Notwithstanding, applicants believe the new claims 24-40 are allowable over these references for the reasons set forth.

Ziarati describes a headset used for an audio and video system that is compatible with strong magnetic fields generated by Magnetic Resonance Frequency equipment. The headset is comprised of two headphones that each consist of a baffle 26 attached to a cover 24. An inner set 23 provides an ear tip for connecting to an ear canal and a base used to attach tubing 22 to the headphone. A transducer located away from the headset produces sounds that are channeled to the headset through tubing 22 that is composed of a flexible polymer material. (col. 7 lines 6-9). The ear cup that comprises the baffle 26 is composed of plastic material that provides comfort to the user while sealing out external noise. (col. 7 lines 48-51). The cover is used only to provide a chamber to encapsulate the inner set and provide a mounting for the head band. The headset of Ziarati contains no conductive elements and therefore no electrode.

Beguin describes an earphone incorporated into an ear-protector used for receiving communications while attenuating background noise. The ear-phone comprises a noise-attenuating cup 12 attached to a flange 16, both of which are composed of a plastic material (col. 2 line 72 - col. 3 line 3). In one embodiment, a movable plate 24 is attached by a hinge to a portion of the flange. A transducer is attached either to the cup 12 or plate 24. Signals are carried by electrical wires 56 to the transducer. The wires establish electrical contact only with the transducer and terminate with the transducer. The transducer is a discrete, terminal device used only to introduce sound into the ear canal. Beguin, therefore, does not show an electrode coupled to the surface of an earpiece.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Respectfully submitted,

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